

SPECIAL MEETING MINUTES CITY COMMISSION

March 18, 2005

A **SPECIAL MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:32 p.m. in City Hall Commission Chambers.

PRESENT: Mayor Jack Quesinberry, Commissioners Theo Graham, Carol Nichols and Mildred Dixon (arrived at 6:32 p.m.)

Also Present: Acting City Manager Mike Bollhoefer, City Attorney Lionel Rubio, City Clerk Kathy Golden, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, Recreation Director Jay Conn, Human Resources Director Frank Gilbert, West Orange Times reporter Michael Laval, and Orlando Sentinel reporter Sandra Mathers

Mayor Quesinberry opened the special meeting by stating the purpose of electing someone to fill the vacancy in District 1 until the next general or special election. The eligible nominee names submitted were as follows: H. Gerald Jowers by Commissioners Nichols and Graham; Richard Mask by Commissioner Dixon and Mayor/Commissioner Quesinberry.

Motion by Commissioner Graham to elect Richard Mask to fill Commissioner District 1 vacancy. Seconded by Commissioner Nichols. Commissioner Graham requested discussion and stated that he has been receiving phone calls including a call from Mr. Mask whom he has known for a long time and owns his own business. Commissioner Graham stated that he was waiting to hear from Commissioner Dixon and Mayor Quesinberry the reasons why they nominated Mr. Mask and if they could give a good reason, why he should vote for him. **Mayor Quesinberry** stated that he submitted Mr. Mask's name because Mr. Mask has served on the Planning and Zoning (P&Z) Board for six years and has worked on other committees for the City. Mr. Mask has made good decisions while serving on the P&Z Board, has an honest integrity, and is dependable. **Commissioner Dixon** stated that she submitted Mr. Mask's name because it was her privilege to do so. She remembers when Mr. Mask was a little boy he would think nothing about helping a little retarded boy. Mr. Mask's brother, being as generous as they have been, took someone in need into their home that died there last week and the Mask family is taking care of the arrangements. Commissioner Dixon also stated she is familiar with a friend who she took to work for Ms. Mask. Commissioner Dixon stated that she knows the Mask family from growing up with them. When she heard the proposed procedure for filling the vacancy, she never felt that she had to explain why she voted for someone or not. She has the privilege of voting for whomever she wants.

Commissioner Nichols stated that she appreciates hearing from those who know Mr. Mask as she does not know him. She knows what she has heard about him from phone calls, good and bad. She does not know how Commissioner Graham feels or what he knows about him. Does Mr. Mask live in District 1? Mayor Quesinberry replied yes. Commissioner Nichols stated that she feels that her position is to vote according to what her constituents, whom she represents, want her to vote.

Commissioner Graham stated that he has known Mr. Mask a long time and his selection was based upon wanting someone who has been on the Commission before to serve out the remaining one-year term because after that the voters in District 1 will make the decision. He wanted someone that would not have a learning stage. When Commissioner Graham was first elected, he stated he sat next to Mr. Cappleman who gave him some guidance and that is why he has recommended Mr. Jowers who is a successful businessman and has previously served as a Commissioner.

Motion failed with a tie vote of 2-2; Mayor Quesinberry and Commissioner Dixon voted yea and Commissioners Graham and Nichols voted nay.

Motion by Commissioner Nichols to elect H. Gerald Jowers to fill Commissioner District 1 vacancy. Seconded by Commissioner Graham.

Commissioner Nichols stated that she also selected Mr. Jowers because she understands that he was a prior City Commissioner and he would bring with him some experience as she does not have any and she thinks more Commissioner experience is best.

Commissioner Dixon stated that she keeps hearing reference to having experience to be a Commissioner but we have single-member districts, which is what she actually sued for which was the right to sit on the Commission for her district. Single-member district means you live where you represent. She stated she respects Commissioner Nichols, but she lives in District 1 and represents District 4. She did not need any experience and does not know the residents in District 4. If a Commissioner knows what the people need, that is the experience needed. If there was that much experience on the Commission, she wouldn't be fighting for things in District 3. Commissioners need to vote how their District wants them to vote.

Motion failed with a tie vote of 2-2; Commissioners Graham and Nichols voted yea and Mayor Quesinberry and Commissioner Dixon voted nay.

Mayor Quesinberry stated that he believes the tie votes indicate they are at impasse after following the procedure they adopted last week and he does not see how anything else can be done but turn it over to the governor. **Commissioner Graham** stated that he feels the Commission should follow the City Charter that has no clause as to how it is to be done only that it be done within 15 days. According to the City Attorney's memo, "Except as provided above, the Charter does not set forth a procedure by which the vacancy is to be filled. Since no further method of filling the vacancy is prescribed, the City Commission may determine the procedure for electing an eligible person to fill the vacancy." Therefore, it can be filled tonight. He doesn't want the Governor making the decision for Winter Garden because the Commission should be capable. If not, they should not be sitting on the Commission. He had at least four people that he considered and he would like to continue on with his next choice. **Motion by Commissioner Graham to elect Rod Reynolds to fill Commissioner District 1 vacancy. Seconded by Commissioner Nichols.**

Mayor Quesinberry stated that he does not think that he can support the nomination because of the negatives in his case. Mr. Reynolds knew the qualifications before trying to run for office

and yet he was going to sue the City. He would not like someone sitting on the Commission that can't follow the rules for running for office.

Commissioner Dixon stated that she knows Mr. Reynolds as a brother in Christ as a Christian. She knew when he was going to run for Mayor and she thinks he would have made a good Mayor but he did not meet the qualifications. She has told him that if he wants to be Mayor he should spend his time in that direction and not try to sit in District 1 seat for one year. He is a good man but she is going to stick with her nomination.

Commissioner Nichols stated that she believes that the Commission could continue discussions, work together to discuss other residents for the position, and reach an accord. She does not know everyone in town but believes the Mayor and fellow Commissioners do know just about everybody in town, and they could come up with some very good candidates for the position. She would hate to see the decision go to the Governor. **Commissioner Graham** clarified that Mr. Reynolds is eligible to fill the vacant seat.

Motion failed with a tie vote of 2-2; Commissioners Graham and Nichols voted yea and Mayor Quesinberry and Commissioner Dixon voted nay.

Motion by Commissioner Graham to elect John Rees to fill Commissioner District 1 vacancy. Seconded by Commissioner Nichols. **Commissioner Graham** stated that the only reason he did not previously nominate Mr. Rees is because Mr. Rees indicated that he did not want to run against his friends for filling the vacancy. Mr. Rees called him today and said that if either of them were not selected he would agree to fill the seat. Commissioner Graham spoke to statements made about experience and he believes that he is a better Commissioner today than he was the day he came into office. He attends Commission meetings twice a month and any special meetings, but it is what he does at other times that make a difference. He participates on various boards that can make a big difference. There are time to work with state representatives, congress, and neighboring cities. Working on committees is beneficial for example, he brought in nearly \$5 million dollars into what was District 3 and is now is District 1. He got grants that totaled nearly \$2.2 million dollars for serving on one board. It is more than just making decisions twice a month. **Commissioner Dixon** thanked Commissioner Graham for his comments and stated that she has also sat and currently sits on boards and gives of her time to the Maxey Community Center but that is not what this meeting is about, which is to select someone to represent District 1. **Mayor Quesinberry** stated that Mr. Rees is a fine person and works as a CEO for a citrus company, but it is never known for sure when he is going to show up for a meeting to ensure a quorum and vote on important decisions, which would be his only reason for not supporting the nomination. **Commissioner Dixon** stated that she likes Mr. Rees and hopes that he will run for Mayor, but she is not voting for him to fill the vacant seat. **Commissioner Nichols** asked Commissioner Dixon if she is willing to consider anyone else. **Commissioner Dixon** replied no, she does not have to.

Motion failed with a tie vote of 2-2; Commissioners Graham and Nichols voted yea and Mayor Quesinberry and Commissioner Dixon voted nay.

Mayor Quesinberry stated that the nomination process has not reached a selection and therefore nominated Fred Crabtree who previously served as a Commissioner for about 14 years. **Commissioner Graham** asked if Mr. Crabtree would be eligible because he serves as the board appointed General Manager of the Lake Apopka Natural Gas Board of which the City of Winter Garden owns 40 percent, the City of Apopka owns 40 percent, and the City of Clermont owns 20 percent. **City Attorney Rubio** stated that he does not know the specifics about the board but the nomination could be approved subject to meeting the qualifications. **Commissioner Dixon** stated that Mr. Crabtree makes good money as the gas board manager and he would not resign that position to sit on the Commission for \$300 a month.

Commissioner Graham asked if the Governor could consider appointing someone the Commission had already been unable to agree upon. **City Attorney Rubio** replied that the Governor can select whomever he wants as long as they are qualified. **Commissioner Graham** stated that he feels the Commission is letting down the City of Winter Garden when four people can't select someone out of nearly 24,000 residents. **Mayor Quesinberry** allowed City Attorney Rubio to respond to a question from the audience regarding whom the Governor will call. **City Attorney Rubio** replied that the City Commission may submit a resolution of impasse to the Governor and whatever his process may or may not be would be pure speculation. **Commissioner Nichols** asked City Attorney Rubio if he was familiar with this occurring elsewhere before. **City Attorney Rubio** replied that he was not aware of a prior occurrence.

Motion by Mayor Quesinberry to declare impasse and forward a resolution of that fact to the Governor. Seconded by Commissioner Dixon. Motion failed by a tie vote of 2-2; Mayor Quesinberry and Commissioner Dixon voted yea and Commissioners Graham and Nichols voted nay.

City Attorney Rubio gave the Commission their options; consider other candidates, reconsider prior nominated candidates, declare an impasse, reconvene on another day, but in any event the City Commission has but 15 days to fill the vacancy. Otherwise, at the end of 15 days, under the Charter, the decision will go to the Governor. **Commissioner Graham** stated that he sees the Commission as being able to come back and vote on somebody because four mature people can represent the City of Winter Garden and not the Governor of the State of Florida. **Commissioner Graham and Nichols** indicated that they were open to suggestions and can reconvene this meeting prior to the 15-day deadline. **Motion by Commissioner Dixon to recess the special meeting and reconvene on Monday, March 14, 2005 at 4:00 p.m. in City Hall Commission Chambers to consider electing an eligible nominee to District 1. Seconded by Commissioner Graham and carried unanimously 4-0.**

Recessed the special meeting at 7:22 p.m. to be reconvened on Monday, March 21, 2005 at 4:00 p.m.

The special meeting was reconvened by Mayor Quesinberry at 4:00 p.m. on Monday, March 21, 2005 and everyone was reminded that an elected nominee is only official with a minimum of three votes in favor.

PRESENT: Mayor Jack Quesinberry, Commissioners Theo Graham, Carol Nichols and Mildred Dixon

Also Present: Acting City Manager Mike Bollhoefer, City Attorney Lionel Rubio, City Clerk Kathy Golden, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, Recreation Director Jay Conn, Human Resources Director Frank Gilbert, West Orange Times reporter Michael Laval, and Orlando Sentinel reporter Sandra Mathers

Motion by Mayor Quesinberry to elect Richard Mask to fill District 1 vacancy. Seconded by Commissioner Dixon. Mayor Quesinberry stated that he feels Mr. Mask is the proper person to fill the seat because he has served on the Planning and Zoning Board, is unbiased and reliable. **Motion failed with a tie vote of 2-2; Mayor Quesinberry and Commissioner Dixon vote yea and Commissioners Graham and Nichols voted nay.**

Motion by Commissioner Nichols to elect Rod Reynolds to fill District 1 vacancy. Seconded by Commissioner Graham. Mayor Quesinberry stated that Mr. Reynolds is a negative person as far as the City is concerned. He wanted to sue the City when he didn't get his way when he tried to run last time against the Mayor. When anybody hires an attorney and threatens the City, he is opposed to that person being in a Commissioner's seat. **Commissioner Nichols** stated that she has diligently searched and cannot find any evidence of a lawsuit brought by Mr. Reynolds against the City. If someone can provide the evidence, she would be happy to vote against him. **Commissioner Dixon** stated that Mr. Reynolds is a good Christian man and she told him that she would vote for him for Mayor, but she would not vote for him for this seat and she has but one choice. **Motion failed with a tie vote of 2-2; Commissioners Graham and Nichols voted yea and Mayor Quesinberry and Commissioner Dixon voted nay.**

Motion by Commissioner Graham to elect Richard Hudson to fill District 1 vacancy. **Commissioner Graham** stated that Mr. Hudson is a successful businessperson who lives in the district. He has not nominated anyone who does not live in District 1. His two previous nominations have served on the Commission previously which he feels is needed for serving out the remaining eleven months and then the voters in District 1 would make the decision. No one else in District 1 has previously served on the Commission and he has nominated Mr. Hudson because he has lived in District 1 for many years. **Commissioner Dixon** stated that she is hearing one thing being said and seeing another being done. **Commissioner Graham** stated that Commissioner Dixon has misunderstood him because he has only voted for people living in the District. **Commissioner Dixon** stated that it is contradictory and is why the Commission is in this dilemma because Commissioner Graham didn't want single member districts. **Commissioner Graham** stated that Commissioner's Dixon's attorney was happy to do it that way and when he had brought it up, the attorney did not complain. At that time, two people serving, of which he was one, had been voted in city-wide. That is why they were not in their district. If Commissioner Dixon wants a requirement that a Commissioner reside in their district, she has never made a motion to that effect. **Commissioner Dixon** stated that the reason that was done was because she was not going to be allowed on the ballot for two years. She has brought this issue up many times over the years. In the last election, everyone lived in their district and she told the Commission it could be voted on without going back to court. She brings it up but it dies for the lack of a second. It will come up again and it should be settled here and not in court. **Mayor Quesinberry** stated he knows Mr. Hudson and has nothing against him but there has

been talk by Commissioners about experience and Mr. Hudson has never had time to serve on boards so when would he have time to support the district and therefore he could not favor his election. *(There was no second to the motion but the vote was called)*. **Motion failed with a tie vote of 2-2; Commissioners Graham and Nichols voted yea and Mayor Quesinberry and Commissioner Dixon voted nay.**

Commissioner Graham stated that he has submitted all his names and if the Commission is at a stalemate, he would like to make another proposal that he thinks will be fair. He stated he did seek the advice of people in authority who make decisions every day in Tallahassee. He called and spoke with Representative Randy Johnson and Senator Webster about how the problem might be resolved. This proposal is not his proposal but came from Representative Johnson after hearing what the Charter states. Representative Johnson stated that he is not an attorney and it would need a legal opinion. Commissioner Graham stated he failed to have City Attorney Rubio's phone number and therefore received another attorney's legal opinion yesterday afternoon that included having a special election by the County Supervisor of Elections in about 45 days that includes a week for candidate registration. The opinion also states that the Commission would in essence be electing the winner of the special election for which there is no name right now. It would let the residents of District 1 elect their own representative. **City Attorney Rubio** responded that he has not seen the opinion nor does he know who the attorney is, however, the Commission must be guided by what the Charter provides which is clear that the vacancy must be filled within the 15 days. Without benefit of this outside opinion and the basis for its support, he would have to opine at this time that it is not a possibility that would be consistent with what the Charter provides. **Commissioner Graham** read the attorney opinion that under Florida State Statutes Section 100.361 Municipal Recall subsection (4)(d) Filling of Vacancies; Special Election "...if only one member of a City Commission has been recalled the vacancy it creates is to be filled by the Commission according to the provisions in the appropriate law for filling vacancies." According to the Charter, the Commission is to fill the vacancy but how they select the person appointed to fill the vacancy is left open. For example, there is no prohibition in either the Florida Statutes or the Charter against the Commission using a special election as the method to indirectly selecting whom they will be appointing to the vacant position. In essence, the Commission is appointing the winner of a special election to be called rather than a named person to the vacant position. A solution for the Commission to consider is calling a special election and designate beforehand that the winner of the election would be their appointee to the vacancy, which should suffice for the procedure. The Charter states "If any vacancy occurs in the city commission, the city commission shall elect within fifteen (15) days by the affirmative votes of not less than three (3) members, an eligible person to fill the vacancy until the next general or special election, at which time the office shall be filled for the unexpired term; provided, that if such vacancy is not filled within fifteen (15) days after it shall have occurred, appointment to fill the existing vacancy shall be made by the governor." You cannot have a special election in 15 days and has included "or" a special election, which leaves it open to the Commission to make the decision with the Commission appointing someone within the required 15 days. The Commission would be saying that the person who wins the election will be the appointed person. The Commission would not know whom that is but would be making the appointment today by designating whoever is voted in. **Mayor Quesinberry** stated that is a broad view of that section when you can't put a name to the appointment. **Commissioner Graham** stated that according to the legal advice he received it could be done in

this manner. It says that we can do what we want to, not that we have to. **City Attorney Rubio** responded by respectfully disagreeing with the opinion received by Commissioner Graham as the City Charter is clear as to the time the vacancy needs to be filled. **Commissioner Dixon** stated that the Charter was established a very long time ago and she is not going to disagree about what the Commission can do but she will do what is Christian and legal and asked the City Attorney if he has seen opinion. **City Attorney Rubio** stated that this is the first he has heard of the opinion. **Commissioner Graham** stated that the attorney who gave it to him is in the audience. **Mayor Quesinberry** reminded everyone that this is a public meeting and not a public hearing for public input. **Commissioner Dixon** stated that she wanted to hear from the lawyer. **Commissioner Graham** stated that he feels that the opinion he has read from an attorney who is present and can support his opinion should be heard. If everyone has the same opinion to let the people vote, why would we not let him or her vote? **Mayor Quesinberry** stated that as far as he is concerned the City Commission has reached an impasse and he has no problem with the Governor appointing someone. **Commissioner Graham** stated that if Winter Garden has to go to the Governor then fine, but he thinks that the Commission has shown the citizens that they don't have a right to have their voice heard through the ballot box, which is the fair process for everybody. **Commissioner Dixon** referenced the term "we" being used and stated she is not objecting as long as it is legal. **Commissioner Graham** stated that different opinions are why Orlando is going through what it is today. **Commissioner Dixon** stated that Commissioner Graham should have provided her with the legal opinion so she could have reviewed it prior to the meeting. **Commissioner Nichols** stated that she finds it hard to believe that those who wrote the Charter could foresee something like this happening and would want anything other than the people choosing their own leadership. She believes the people should vote for their own leadership. **Commissioner Dixon** stated that going against the Charter will cause trouble. **Mayor Quesinberry** stated that he believes the Commission has reached an impasse. **Mayor Quesinberry motioned to declare an impasse. Motion failed for the lack of a second.**

Commissioner Dixon stated that she respects legal opinions and the City Attorney is paid for that service but she has previously told the Commission that the Charter should be revised. **Commissioner Graham** stated that the Charter has to be changed by the voters, not the Commission. **Commissioner Dixon** stated that other cities review and change their Charters all the time to reflect what makes sense for today. **Commissioner Graham** stated that the people vote on proposed Charter revisions. Legal writings are challenged in court every day, for example, the Supreme Court recently ruled with a vote of 5 to 4, not unanimous, just as these two attorneys disagree on the same writing. He can't understand how a special election can be done within 15 days because military personnel must be notified 30 days in advance by mail. **City Attorney Rubio** reiterated that the governing document is the Charter and in his opinion, it clearly states the City Commission shall elect within fifteen (15) days. At this point, the options available for consideration by the Commission include; another name can be proposed, a previously proposed name can be reconsidered, declare an impasse, or adjourn.

Motion by Mayor Quesinberry to elect Richard Mask to fill District 1 vacancy. Seconded by Commissioner Dixon. **Commissioner Dixon** asked when is the last day the Commission has to make the decision. **Commissioner Graham** replied that March 23, 2005 has been given but he has his doubts about that date because the Commission did not certify the ballots until the Commission meeting on Thursday. This is yet another legal opinion, but he believes the 15 days

should have started counting from the Commission meeting on Thursday, March 10, 2005. If the Commission wanted to postpone this issue to obtain more than the one opinion, this issue could be set for Thursday night. He would like to know if the recommended action is legal and encouraged others to call the representatives he contacted so they could hear it for themselves. The representatives just want the City to make the decision. He did not speak with the Governor. Representative Johnson asked him to get a legal opinion from Fred O'Neal. Commissioner Graham stated that his information is that the Governor would not make the appointment for seven to ten days. **Commissioner Dixon** stated that the Commission has to elect someone to the vacant seat in the required 15 days and then if you have a special election the winner gets the seat the remainder of the term. She will not vote in favor of a blank name to fill the seat. **Motion failed by a tie vote of 2-2; Mayor Quesinberry and Commissioner Dixon voted yea and Commissioners Graham and Nichols voted nay.**

Commissioner Graham stated that he spoke with Mr. Mask less than two hours ago and Mr. Mask stated that he works six days a week with his business in Clermont and he won't have time to be a politician because he won't be able to cut ribbons or shovel any dirt. If someone isn't going to do anything but come to these meetings, it is going to be hard for that person to help people and go to meetings to obtain grants or meet with legislators when they are in town. We need somebody that will not only sit at Commission meetings. We should be available to the public, our representatives, and to work with other cities. This is the reason he did not vote in favor of Mr. Mask. **Mayor Quesinberry** stated that the newest elected Commissioner works in Sanford can't make those meetings either but he does not think it is a valid reason because they must work for a living and not yet retired as the rest of the Commission.

Commissioner Nichols requested a short recess. Mayor Quesinberry declared a five-minute recess at 4:43 p.m.

Mayor Quesinberry reconvened the meeting at 4:55 p.m. and asked the Commission to set a time for adjourning. **Commissioner Dixon motioned to adjourn the meeting in fifteen minutes** **Mayor Quesinberry seconded the motion.** **Motion failed by tie vote of 2-2; Mayor Quesinberry and Commissioner Dixon voted yea and Commissioners Graham and Nichols voted nay.**

Motion by Commissioner Nichols to temporarily set aside the meeting rules and allow Mr. O'Neil to speak to his legal opinion provided to Commissioner Graham. Seconded by Commissioner Graham. Motion passed with a vote of 3-1; Commissioners Graham, Nichols, and Dixon voted yea and Mayor Quesinberry voted nay. Mayor Quesinberry stated he opposes this motion because this is not a public hearing.

Mr. Fred O'Neil apologized for not providing Mr. Rubio with a copy his opinion he gave Commissioner Graham. **Mayor Quesinberry** clarified that Mr. O'Neil agreed that he should have provided the City Attorney with a copy of his opinion. **Mr. O'Neil** stated that if he had plenty of time there is no doubt that he would have given it to Mr. Rubio also. He gave some background into the situation in Orlando whereby they are calling a special election to fill the Mayor's seat that is vacant due to his suspension by the Governor. Orlando looked at the State Statutes for appointing someone and the decided by a four-member vote that they were going to

use the special election provision to determine who was going to be appointed. The Winter Garden Charter provides “shall elect within 15 days by affirmative vote of not less than three members an eligible person to fill the vacancy.” Looking at it in the way you would have a name and face and would vote for that name and face or you could have descriptio persona, you could say we vote for this person and describe who that person is or how that person is going to be selected and make that the person you would vote to fill the vacancy which is the essence of the opinion he gave Commissioner Graham.

City Attorney Rubio stated that this is the City of Winter Garden with its own Charter and Orlando has a different Charter, which provides for a different procedure. Mayor Dyer’s situation is different because the Governor suspended him and that falls under Chapter 112 of the Florida State Statutes. In Winter Garden, there was a recall of Commissioner Thompson that falls under Chapter 100 of the Florida Statutes and in his opinion, pursuant to the City of Winter Garden’s Charter this City Commission has 15 days to make the determination of who is filling the vacancy. If not, the decision will go to the Governor.

Commissioner Graham spoke to Representative Johnson’s idea of appointing someone to fill the vacancy until Winter Garden had an election and 1) whoever the Commission appoints would not be a candidate for the special election and 2) the Commission would not bring up any controversial issues before the person is elected, which he assumes Representative Johnson was referring to Trailer City issues. Commissioner Graham stated that he would go along with anybody selected for up to 45 days if the people were allowed a special election to make the decision. **Commissioner Dixon** referenced the statement that the person could not run and asked to hear the rationale behind it. **Commissioner Graham** replied that he would have the advantage of sitting on the Commission for 45 days. Commissioner Graham stated that he is only sharing what Representative Johnson said but he would withdraw item 1 and let the person run if they want to, it is fine with him. Forty-five days is not a big advantage anyway. Commissioner Graham stated that he would like to make a motion for the Commission to select one name to serve 45 days, schedule an election, and let the people vote. Once the person is elected, the Commission appointee would give up the seat and the elected Commissioner would take over and serve out the remaining term. **Mayor Quesinberry** stated he does not know if it is legal and deferred the matter to the City Attorney. If the City Attorney determines it is legal; he would have no problem with an impartial name being submitted as the interim Commissioner. **City Attorney Rubio** stated that he questions the validity of adopting a procedure that is different from what is provided for in the Charter. If it is the pleasure of the Commission, he will research the legalities. **Commissioners Nichols and Graham** agreed that the Charter provides for a special election. **City Attorney Rubio** stated that what it does provide is the timeframe in which the Commission must fill the vacancy until the next general or special election. **Commissioner Graham** stated that he is asking for a special election. **City Attorney Rubio** asked the City Clerk if 45 days was feasible for a special election. **City Clerk Golden** replied that 45 days would be feasible. **Mayor Quesinberry** stated that he would motion that under the current circumstances until the Commission receives a legal opinion, Jerry Carris would be appointed to the vacant seat until the next election if that is allowable under the City’s code. **Commissioner Graham** asked if it is determined that there cannot be an election, is it just going to go to the Governor. **Mayor Quesinberry** stated he doesn’t see any other alternative. **Commissioner Nichols** suggested adding a timeframe of no less than 45 days or more than 60

days. **Commissioner Dixon** agreed. **Commissioner Graham** asked if the motion should include Mr. Carris. **Mayor Quesinberry** stated that if the motion is made that is the way he would want it to read that Mr. Carris would be seated temporarily. **Commissioner Graham motioned to have a special election within 45 days and that Jerry Carris will sit as District 1 Commissioner for 45 days, if the legal opinion says this cannot be done, then it will go to the Governor. Seconded by Commissioner Nichols. Mayor Quesinberry** asked Mr. Carris if he would accept a temporary appointment. **Mr. Carris** stated that he would rather accept the appointment after meeting with residents of District 1 and listen to what they have to say. **Mayor Quesinberry** stated to Mr. Carris that he is not running for election but would serve in the interim. **Mr. Carris** stated he would accept an interim appointment. **Motion carried unanimously 4-0.**

Motion by Commissioner Graham to adjourn at 5:09 p.m. Seconded by Commissioner Nichols and carried unanimously 4-0.

APPROVED: